IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.Rev.Pet.No. 343 of 1999()

CRA.224/1997 of SESSIONS COURT, THRISSUR DT.23.2.1999.
CC.444/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY DT.18.7.97.
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REVN. PETITIONER: APPELLANT/ ACCUSED

MADHAVAN, S/O.VILAYILUVEETTIL NARAYANAN,
POONKUNNAM VILLAGE, DESOM,
THRISSUR TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SRI.T.A.UNNIKRISHNAN

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR , HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.MP.1420/1999 IN CRRP. 343/1999

DISMISSED

26.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P. NO. 343 of 1999

Dated this the 26th day of June, 2007

ORDER

The revision petitioner stands convicted for the offences under sections 279 and 338 IPC and sentenced to undergo simple imprisonment for 3 months for the offence under section 279 IPC and simple imprisonment for 3 months for the offence under section 338 IPC. (The sentences shall run concurrently).

2. The prosecution case is that on 23-12-1994 at about 7 a.m., the accused , while driving the bus bearing Regn. No.KEH 932 allegedly in a rash and negligent manner so as to endanger human life along the Cheruthuruthy-Shornur public road, happened to hit on the side of an electric post and as a result of the impact, the glass on the rear left side of the bus got broken and fell on the head of CW-2/PW-1 a boy aged 13 years who sustained fracture of the frontal bone.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 8; Exts.P1 to P6 and M.O-1 series and M.O-2.

4. PW-2 a passenger of the bus has stated that the incident has taken place when the accused gave side to a lorry that was

coming from the opposite side and happened to hit on the electric post. He has stated that the incident took place on account of the negligence of the accused. PW-3, another passenger has also stated that the driver/accused, in order to avoid a collision, swerved the vehicle and as a result of which the bus hit on the electric post. PW-4 the cleaner of the bus did not support the prosecution and turned hostile to the prosecution. It is PWs 2 and 3 who have testified as to the negligence of the accused. PW-3 has stated that the incident was occasioned as the driver of the bus swerved the bus towards left and then to the right.

5. In the circumstances, and in view of the concurrent findings, I find no reason to interfere in the findings of the courts below in exercise of the revisional jurisdiction. The conviction is confirmed.

6. It is submitted that the incident has taken place in 1999 and that the revision petitioner is right now aged 71 years. In the circumstance, the sentence is modified to pay a fine of Rs.1000/- for the offence under section 279 IPC and in default to undergo simple imprisonment for two weeks. He is also sentenced to pay a fine of Rs.1000/- for the offence under

section 338 IPC and in default to undergo simple imprisonment for two weeks.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/

K.R.UDAYABHANU, J.

CRL.R.P. 343 OF 1999

ORDER

26-6-2007.